

## CHAPTER 13.06

### Non-Potable/Dual Water Systems

#### 13.06.010 Non-potable/dual water systems required.

A. Mandatory construction of non-potable/dual water systems for irrigation. Commencing upon the adoption of the ordinance codified herein, all new residential development within those areas of the Urban Growth Boundary of the City, designated by the City Council as suitable for the construction of non-potable/dual water systems, shall be required, as part of any subdivision process, to construct a non-potable/dual water system for irrigation of all residential lots and common areas within the subdivision. Likewise, proponents of all new residential development shall provide for adequate non-potable water rights dedication in amounts sufficient in both quantities and quality to operate said system so the system will provide an assured and sufficient amount of water to adequately irrigate all residential lots and common areas.

#### B. Definitions:

1. The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

- a. The singular number includes the plural and the plural the singular;
- b. The present tense includes the past and future tenses, and the future the present;
- c. The word *shall* is mandatory, while the word *may* is permissive;
- d. The masculine gender includes the feminine and neuter.

2. The following words and terms, wherever they occur in this Chapter, shall be construed and defined as follows:

*Non-potable irrigation* means a secondary water system within a subdivision or within a project that includes a dual water system designed solely for outdoor landscape irrigation and not for human or animal consumption or play.

*Residential development* means any number of lots for construction of any number of dwelling units, including but not limited to single-family and two-family dwellings, multi-family dwellings, factory built homes and manufactured homes.

C. Dedication of non-potable/dual water systems to the public. As a condition of subdivision approval of any residential development wherein a non-potable/dual water system shall be required, such system shall be operated, repaired and maintained by the City following the completion of the specified warranty period. The City may provide for credits as may be appropriate for the construction of such system, including reduced raw water dedication requirements reflective of the existence of a non-potable/dual water system, as well as reduced water plant investment fees likewise reflective of the existence of the non-potable/dual water system. All non-potable water resources designated for use within the proposed subdivision for the operation of the non-potable/dual water system shall be available both physically and legally in perpetuity, thereby assuring to the City that adequate water resources will be available to the City for the operation of the non-potable/dual water system. Therefore, the public

improvements developer's agreement must provide for the transfer of such water resources, as well as the water acquisition and distribution system, to the City upon completion of said improvements. The adequacy and reliability of the non-potable water resources shall be determined by the City in its sole discretion.

D. Annexation. The construction of a non-potable/dual water system at the time of development shall be a condition of annexation when annexation is proposed for residential development in an area designated as requiring the construction of non-potable/dual water systems.

E. Feasibility review and determination. In the event it can be established to the satisfaction of the City Council that construction of a non-potable/dual water system as part of new residential development in an area designated as requiring the construction of non-potable/dual water systems is not economically feasible and would prove to be an undue hardship, the City Council may relieve the developer from the operation of the ordinance codified herein. Any such determination by the City Council shall be conditioned upon compliance with the following conditions:

1. The developer shall submit an application seeking relief from the operation of the ordinance codified herein on a form prescribed by the City and containing such information and supporting documentation as may be required by the City.

2. The developer shall submit an analysis of the economic feasibility of the proposed non-potable/dual water system using a standardized cost benefit analysis approved by the City.

3. The developer may submit such additional information and documentation as may be deemed relevant in support of its proposition that the construction of a non-potable system is not economically feasible and would work an undue hardship, including but not limited to information concerning the availability and cost of raw water and issues of engineering relating to the delivery of raw water to the system in question.

4. Upon receipt of the aforesaid application, cost benefit analysis and additional information and documentation, the Director of Public Works may, in his or her or her sole discretion, employ such engineers, financial analysts and such other experts as may be necessary to review and evaluate the data provided and to submit an independent analysis of the developer's application for relief from the operation of the ordinance codified herein. The reasonable and necessary expenses incurred by the City shall be paid by the developer and shall be advanced by the developer as a condition of this process.

5. Upon the completion of the independent analysis as aforesaid, the Director of Public Works, upon notice to the developer, shall schedule a hearing before the City Council. At the time of the hearing, the developer and the City shall each be afforded a full opportunity to present all relevant evidence in the form of testimony and exhibits, including a recommendation from the Water and Sewer Board.

F. Regulations. The Director of Public Works is hereby authorized to develop regulations for the construction and operation of non-potable/dual water systems. Such regulations shall include, but shall not be limited to, location of and specifications for transmission lines, valves, connections, pumps, structures and storage requirements for non-potable water. (Ord. 288-04)